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C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 001613

SIPDIS

EUR/SCE (HYLAND, FOOKS), NSC FOR HELGERSON

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TAGS: PREL PGOV PINR PHUM KDEM BK

SUBJECT: BOSNIA - RS NATIONAL ASSEMBLY REAFFIRMS RIGHT TO

REFERENDUM

REF: A. SARAJEVO 1518 B. SARAJEVO 1575 C. SARAJEVO
362 D. SARAJEVO 07 1862

Classified By: DCM Judith Cefkin. Reasons 1.4 (b) and (d).

¶11. (C) SUMMARY: Following calls in September by Bosniak Tri-Presidency member Haris Silajdzic for the abolition of the RS, the Republika Srpska National Assembly (RSNA) held a special session on October 13 and 15, at which it adopted a resolution implying the right of the RS to hold a referendum on independence. The resolution also sharply condemns Silajdzic's diatribes, demands that every competency transferred from the entities to the state first be approved by the RS, calls for the closure of OHR, and points the finger at the Federation for a number of state-wide woes. Silajdzic responded to the resolution by reiterating that the RS -- not he -- is instigating Bosnia's problems, while Party of Democratic Action (SDA) chairman Sulejman Tihic noted that the resolution does not explicitly refer to RS sovereignty or use the word "referendum." Although the resolution does not explicitly mention a referendum, most observers are able to see through the Serbs' smokescreen, and the resolution is likely to aggravate the generally negative political atmosphere in Bosnia. END SUMMARY.

Rattled RSNA in a Rage

¶12. (C) The RS National Assembly (RSNA) -- at the request of RS President Rajko Kuzmanovic and Serb member of the Tri-Presidency Nebojsa Radmanovic -- held a special session on October 13 and 15 to respond to Haris Silajdzic's demands for the abolition of the RS at the UNGA on September 24 and the Council of Europe on September 30 (refs A and B), as well as the Council of Europe's report itself, which calls for a revision of entity voting (ref B). Kuzmanovic's note to the RSNA in advance of the session included a lengthy discussion of the political problems he believes plague Bosnia and called for the RSNA to "consider every request coming from Bosnian authorities or the international community to drastically decrease the authorities of the RS (as an act jeopardizing the sovereignty and constitutional position of the RS" and to express "full readiness to use all legal and political means, including the right to a referendum of the citizens of the RS, to defend (the RS's) legitimate interests and preserve the identity confirmed in the Dayton Accords." The RSNA adopted both Kuzmanovic's note -- labeling it a non-binding "information" for the record -- and an official resolution reflecting most of the concerns Kuzmanovic's note outlined.

¶13. (C) Despite the explicit reference in Kuzmanovic's note to the RS's legal "right" to hold a referendum, the RSNA's October 15 resolution does not include the word "referendum."

Moreover, neither Kuzmanovic nor RS PM Milorad Dodik mentioned a referendum in their speeches at the RSNA session.

Some sources in the RS have signaled to us that the resolution did not include the word "referendum" because of concerns about possible sanctions from the USG, following Ambassador's condemnation of nearly all of Kuzmanovic's note and his warning that the USG would not tolerate challenges to Bosnia's sovereignty or territorial integrity. But the RSNA captured the referendum concept by adopting the Kuzmanovic note itself, which included references to a referendum, and by reaffirming the resolution the RSNA adopted on February 21, in the wake of Kosovo's declaration of independence. The February resolution asserted the RSNA's "right to establish and define its position on its state-level status by way of a direct declaration or vote of the citizens." It also outlined conditions under which the RS could move toward independence, including -- *inter alia* -- "if the Dayton position and powers of Republika Srpska are not accepted in the institutions of Bosnia and Herzegovina," and "if the pressure is continued on Republika Srpska to change its status against its will" (ref C). Our RS sources have told us that some RS officials believe that reaffirming the February resolution will not get them in trouble with the international community because the PIC failed to specifically condemn that resolution in its February communique.

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Snubbing Silajdzic

¶14. (SBU) The October 15 resolution sharply condemns Silajdzic's statements at the UNGA and Council of Europe calling for the abolition of the RS (refs A and B). The resolution charges that these speeches "caused damage to the international reputation of Bosnia and Herzegovina, undermined confidence within the whole of Bosnia and Herzegovina, and weakened the authority of the institution of the Presidency of Bosnia and Herzegovina." It accuses Silajdzic of "abusing his position of the Chairman of the Presidency of Bosnia and Herzegovina" and "threatening the Dayton Agreement and vital interests of Republika Srpska." It instructs Serb Tri-Presidency member Nebojsa Radmanovic to veto each new decision by which the Tri-Presidency would authorize Silajdzic to lead a delegation or represent Bosnia abroad without an agreed-upon platform within the Presidency.

(Note: Silajdzic's chairmanship of the Presidency ends on November 6, but if Radmanovic considers these instructions binding, then presumably he would block any remaining international travel by Silajdzic between now and November 6, unless Silajdzic agreed to clear with Radmanovic any statements he would make. End Note.)

Clamoring for Competencies

¶15. (C) Dodik in his October 13 speech to the RSNA declared that 61 competencies -- all except tax administration, the High Judicial Prosecutorial Council, and defense -- have been "illegally" transferred to the state and must be returned to the entities. (Comment: This number is fictitious; only four such transfers have occurred. What Dodik defines as a competency transfer is actually the state exercising the powers guaranteed to it under the constitution. End Comment.) The resolution subsequently stated that competency transfers to the state are possible only by agreement between the entities, noting that any competency transfer through a law passed by the state-level Parliamentary Assembly -- without the prior approval of the RSNA -- is unacceptable.

It calls on the RS representatives in the state Parliament to launch an initiative to legally define the procedures for the transfer and reversal of competencies from an entity to the state.

HighRep Should Hit the Highway

¶ 16. (SBU) The resolution proclaims that after thirteen years of supervision -- and Bosnia's signing of the Stabilization and Association Agreement (SAA) with the EU -- OHR is no longer needed. The resolution opines that the time is right for the transformation of OHR to the Special Representative of the European Union (EUSR), tasked with assisting Bosnia in its path to European integration. It asks OHR to deepen its communication with the RS -- as a signatory to Dayton -- concerning any proposals to extend or modify OHR's mandate. Dodik in his speech at the session also challenged the legitimacy of the PIC and accused it of overstepping its bounds, but these sentiments were not reflected in the resolution.

Federation's Deadly Sins

¶ 17. (SBU) The resolution concludes by pointing the finger at the Federation for a number of Bosnian problems:

-- The Federation Parliament passed a law on the Federation Public Broadcasting Service, which is not harmonized with the laws of the state and the RS. Of particular offense is the reference to a unilateral take-over of a part of revenues and the implementation of the procedure for the selection of the management.

-- The Federation uses unconstitutional symbols -- particularly the coats-of-arms in the Federation and a number of cantons -- which contravene the decisions of the state-level and Federation-level Constitutional Courts.

-- For the second year in a row, the Federation is harboring

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a major budget deficit, undermining financial stability in all of Bosnia.

-- While the RS diligently fulfills its financial obligations to the Returns Fund of Bosnia, the Federation only last month paid its 2007 installment.

Silajdzic Grimaces, Tihic Grins

¶ 18. (SBU) Silajdzic's office announced that the resolution is an "obvious continuation of the attacks against the sovereignty, territorial integrity, and responsibilities of BiH. It is clear that the RS ignored all warnings from the international community." Silajdzic later added that his speeches are not the cause of Bosnia's tensions, but rather that the "mass graves are still being dug out throughout Bosnia" and "Karadzic's project thrives under the Dayton umbrella." Party of Democratic Action (SDA) chairman Sulejman Tihic noted that the resolution did not explicitly mention RS sovereignty or use the word "referendum." Sefket Hafizovic, deputy speaker of the RSNA and SDA member, stated only that the Resolution was confusing, with referendum still an option, and many conclusions contradictory and unconstitutional. The Bosnian Croat daily Vecernji List carried a more ominous commentary, proposing four scenarios in the event of RS secession: 1) Croats could remain with the Bosniaks in a unified state, 2) Croats and Bosniaks could form two republics within the state, 3) Bosnian Croats could proclaim an independent republic, or 4) Bosnian Croats could join Croatia.

Comment

¶9. (C) The RSNA's October 15 resolution certainly does not contribute to building trust or constructive relationships among the political leadership of Bosnia's three constituent peoples. Some Serbs are stressing that the RSNA resolution does not use the word "referendum" and suggesting that this is sign of the resolution's moderation. This argument is only credible if the reaffirmation of the February RSNA resolution and the adoption of Kuzmanovic's note are ignored.

Bosniaks, Croats, and most intelligent observers are able to see through this Serb rhetorical smokescreen. The resolution is problematic in other ways as well. Dodik and his allies have been making false claims about the number and legality of competency transfers and threatening to reclaim lost competencies for more than a year (ref D). These claims have grown bolder in recent months. The implication of the resolution's language on competency transfers is that the state would require the entities' consent to exercise its competencies under the constitution. It also implicitly endorses a strategy of reclaiming "imposed" or "illegal" competency transfers, which runs counter to clear PIC warnings that there can be no unilateral withdrawal from previous reforms. In essence this would return the RS to a level of autonomy enjoyed just after the 1992-1995 war, a situation that would all but ensure the collapse of the state.

ENGLISH